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Filing date: **01/09/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91184456
Party	Plaintiff L'Oreal USA, Inc.
Correspondence Address	Robert L. Sherman Paul, Hastings, Janofsky & Walker LLP 75 East 55th Street New York, NY 10022 UNITED STATES rls@paulhastings.com
Submission	Other Motions/Papers
Filer's Name	Robert L. Sherman
Filer's e-mail	rls@paulhastings.com
Signature	/rls/
Date	01/09/2009
Attachments	Opposers_Response_to_Applicants_Premature_Filing_of_Notice_of_Reliance.pdf (3 pages)(88464 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 76/596,736
Published in the Official Gazette on May 6, 2008
Mark: L'OREAL PARIS

L'ORÉAL S.A. and L'ORÉAL USA, INC.,

Opposer,

v.

ROBERT VICTOR MARCON,

Applicant.

Opposition No. 91184456

OPPOSER'S RESPONSE TO APPLICANT'S PREMATURE NOTICE OF RELIANCE

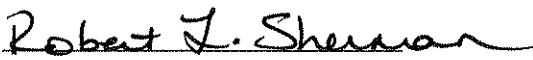
Opposer notes that Applicant's testimony period is scheduled to begin on June 10, 2009 and to close on July 10, 2009. Opposer further notes that Applicant filed a Notice of Reliance with the Trademark Trial and Appeal Board (the "Board") on November 4, 2008, more than seven (7) months prior to opening of its testimony period. The Board's rules provide that evidence may be submitted by "filing the materials with the Board under cover of one or more notices of reliance *during the testimony period* of the offering party" (emphasis added). Trademark Trial and Appeal Board Manual of Procedure (TBMP) §§ 702, 704. Opposer does not wish to create undue burden for Applicant or the Board by moving to strike Applicant's Notice of Reliance as being untimely because it is premature, as Opposer assumes that Applicant will merely refile the same Notice of Reliance during its testimony period. However, Opposer seeks formal confirmation from the Board that Opposer has no obligation to respond to Applicant's Notice of Reliance, including no

obligation to raise procedural or substantive objections thereto, until Applicant's trial period opens, and does not waive any such objections by failing to raise them at this time.

Dated: January 9, 2009

Respectfully submitted,

PAUL, HASTINGS, JANOFSKY
& WALKER LLP

By: 
Robert L. Sherman
Natalie G. Furman

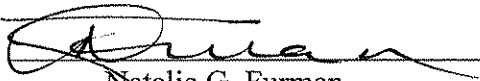
75 E. 55th Street
New York, New York 10022
212-318-6000

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby certify that on January 9, 2009, a true and complete copy of the foregoing
OPPOSER'S RESPONSE TO APPLICANT'S PREMATURE NOTICE OF RELIANCE
has been served on Robert Victor Marcon by mailing said copy, via UPS Overnight mail to:

Robert Victor Marcon
3471 Sinnicks Avenue
Niagara Falls, Ontario L2J 2G6
CANADA


Natalie G. Furman